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VERCO DECKING, INC.

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE, a non-profit
corporation,

Case No. C12-00184 DMR

18 Plaintiff,
**NOTICE OF SETTLEMENT;
STIPULATION AND [PROPOSED] ORDER
STAYING PROCEEDINGS AND
VACATING EXISTING DATES**

19 vs.
20 VERCO DECKING, INC., a corporation,
21 Defendant.

Judge: Hon. Susan Illston

Case Mgt. conference continued to 2/8/13 @ 2:30 p.m.

22
23
24 **PLEASE TAKE NOTICE** that the parties have reached a settlement resolving all claims
25 in this action. Entry of the settlement, however, must await the expiration of the federal agencies'
26 45-day review period required by the Federal Water Pollution Control Act, 33 U.S.C. §

27
28 Notice of Settlement; Stip. and
[Proposed] Order Staying Proceedings and
Vacating Existing Dates

Case No. C12-00184
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1 1365(c)(2).¹

2 **PLEASE TAKE FURTHER NOTICE** that, in accordance with federal law, no
 3 judgment disposing of this action may be entered prior to 45 days following the receipt of the
 4 proposed settlement agreement by the United States Department of Justice and the national and
 5 Region IX offices of the United States Environmental Protection Agency. *See* 40 C.F.R. § 135.5
 6 (requiring the parties to provide notice to the court of the 45-day agency review period under 33
 7 U.S.C. § 1365(c)). Such notice was mailed to the agencies on October 11, 2012. The regulatory
 8 agencies' review period will end by approximately December 4, 2012 (allowing forty-five days
 9 for agency review and approximately nine days for mailing time). If any of the reviewing
 10 agencies object to the proposed Consent Agreement, the parties may require additional time to
 11 meet and confer and attempt to resolve the agencies' concerns. At the end of the 45-day review
 12 period, the parties will file the proposed Consent Agreement for review and approval by the
 13 Court.

14 In light of the settlement agreement entered into by the parties and the need to await the
 15 conclusion of the agencies' 45-day review period, Plaintiff California Sportfishing Protection
 16 Alliance ("CSPA") and Defendant Verco Decking Inc. ("Verco"), through their respective
 17 counsel, stipulate and agree as follows:

18 **WHEREAS**, on January 11, 2012, CSPA filed its Complaint in this action;

19 **WHEREAS**, CSPA and Verco have been diligently engaged in settlement discussions
 20 since the filing of the Complaint;

21 **WHEREAS**, the parties successfully completed and executed a proposed Consent
 22 Agreement on October 8, 2012;

23 **WHEREAS**, on October 11, 2012, CSPA submitted the proposed Consent Agreement via
 24 certified mail, return receipt requested, to the U.S. EPA and the U.S. Department of Justice and
 25 must now await the completion of the 45-day review period set forth at 40 C.F.R. § 135.5 and 33

26 ¹ Title 33 of the United States Code, Section 1365(c)(2) provides that "[n]o consent judgment shall be
 27 entered in an action in which the United States is not a party prior to 45-days following the receipt of a
 copy of the proposed consent judgment by the Attorney General and the Administrator."

1 U.S.C. § 1365(c)(2);

2 **WHEREAS**, in the interests of efficiency and judicial economy, the parties wish to
3 minimize costs incurred in this matter pending the agencies' review of the executed settlement
4 agreement;

5 **WHEREAS**, in light of the parties' entering into the settlement agreement and the need to
6 allow the federal agencies 45 days to review the proposed Consent Agreement, the parties further
7 request that the Court immediately stay all proceedings in this action until December 15, 2012, by
8 which date the parties expect to have filed the proposed Consent Agreement for approval by the
9 Court. The parties further request that all deadlines and dates currently scheduled by the Court be
10 vacated.

11 **THEREFORE, IT IS HEREBY STIPULATED**, by and between CSPA and Verco,
12 through their respective counsel of record, that the Court stay all proceedings in this action until
13 December 15, 2012 and, with the exception of this Stipulation, vacate all deadlines and dates
14 currently scheduled by the Court.

15 Respectfully submitted,

16 Dated: October 24, 2012

FARELLA BRAUN + MARTEL LLP

17 By:Paul P. "Skip" Spaulding (as authorized on 10/12/2012)
18 Paul P. "Skip" Spaulding
19 Attorneys for Defendant VERCO DECKING, INC.

20 Dated: October 24, 2012

LOZEAU DRURY LLP

21 By:Michael R. Lozeau
22 Michael R. Lozeau
23 Attorneys for Plaintiff
24 CALIFORNIA SPORTFISHING PROTECTION
25 ALLIANCE

26 PURSUANT TO STIPULATION, IT IS SO ORDERED.

27 Dated: 10/26/12



The Hon. Susan Illston
United States District Judge

28 Notice of Settlement; Stip. and
[Proposed] Order Staying Proceedings
and Vacating Existing Dates